

Superseded 5/10/2016

13-35-302 Issuance of additional franchises -- Relocation of existing franchisees.

- (1)
 - (a) Except as provided in Subsection (2), a franchisor shall comply with Subsection (1)(b) if the franchisor seeks to:
 - (i) enter into a franchise establishing a powersport vehicle dealership within a relevant market area where the same line-make is represented by another franchisee; or
 - (ii) relocate an existing powersport vehicle dealership.
 - (b)
 - (i) If a franchisor seeks to take an action listed in Subsection (1)(a), prior to taking the action, the franchisor shall in writing notify the advisory board and each franchisee in that line-make in the relevant market area that the franchisor intends to take an action described in Subsection (1)(a).
 - (ii) The notice required by Subsection (1)(b)(i) shall:
 - (A) specify the good cause on which it intends to rely for the action; and
 - (B) be delivered by registered or certified mail or by any form of reliable delivery through which receipt is verifiable.
 - (c) Within 45 days of receiving notice required by Subsection (1)(b), any franchisee that is required to receive notice under Subsection (1)(b) may protest to the advisory board the establishing or relocating of the dealership. When a protest is filed, the department shall inform the franchisor that:
 - (i) a timely protest has been filed;
 - (ii) a hearing is required;
 - (iii) the franchisor may not establish or relocate the proposed dealership until the advisory board has held a hearing; and
 - (iv) the franchisor may not establish or relocate a proposed dealership if the executive director determines that there is not good cause for permitting the establishment or relocation of the dealership.
 - (d) If multiple protests are filed under Subsection (1)(c), hearings may be consolidated to expedite the disposition of the issue.
- (2) Subsection (1) does not apply to a relocation that is:
 - (a) less than one mile from the existing location of the franchisee's dealership; and
 - (b) within the same county.
- (3) For purposes of this section:
 - (a) relocation of an existing franchisee's dealership in excess of one mile from its existing location is considered the establishment of an additional franchise in the line-make of the relocating franchise;
 - (b) the reopening in a relevant market area of a dealership that has not been in operation for one year or more is considered the establishment of an additional powersport vehicle dealership; and
 - (c)
 - (i) except as provided in Subsection (3)(c)(ii), the establishment of a temporary additional place of business by a powersport vehicle franchisee is considered the establishment of an additional powersport vehicle dealership; and
 - (ii) the establishment of a temporary additional place of business by a powersport vehicle franchisee is not considered the establishment of an additional powersport vehicle dealership if the powersport vehicle franchisee is participating in a trade show where three or more powersport vehicle dealers are participating.

